IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Civil Transfer Application No. 18 of 2007

Azhar Ali S/O Sri Anis Ahmad, R/O Moh. Ganj, Kashipur, District Udham Singh Nagar.

….. . Applicant.

Versus

1. Smt. Asha W/O Late Sri Ramesh,
2. Sanjeev S/O Late Ramesh-minor
3. Km.Shashi, D/O late Ramesh-minor,
4. Km. Upasana D/O late Ramesh-minor,
5. Km. Mamita D/O late Ramesh, minor,
6. Sachin D/O late Ramesh minor, All minors through their mother Smt. Asha.
7. Shyamlal S/O late Sri Inder Singh, All residents of Village Babarkhera, P.S. Kashipur, District Udham Singh Nagar.
8. Assistant Commissioner Workman Compensation Rudrapur, District Udham Singh Nagar.

……Respondents.

Sri Jagdish Prasad, learned counsel for the applicant.
Sri Paresh Tripathi, Brief Holder for the State, learned counsel for the respondent no.2.

Dated August 21, 2007.

Hon'ble B.S. Verma, J.

This application under Section 24 of the Code of Civil Procedure has been moved by the applicant for transfer of W.C.A. Case No. 6 of 2005, Smt. Asha and others Vs. Azhar Ali, pending before the Workmen Compensation Commissioner Rudrapur to some other court of competent jurisdiction at Haldwani or at Dehradun, on the ground that the learned Workmen Compensation Commissioner Rudrapur has proceeded ex-parte against the petitioner, thereby the opportunity of adduce evidence to the petitioner was denied.

The grievance of the petitioner is that the petitioner has been denied the proper opportunity of hearing by the respondent no.8, who is adamant to proceed ex parte against the petitioner.

Learned counsel for the petitioner has urged that the respondent no. 4 may be directed to afford reasonable opportunity to adduce evidence to the petitioner before proceeding further in the matter and the writ petition may be disposed of finally. Learned counsel further submitted that the next date fixed in the matter is 22-8-2007 before the respondent no.8.

In the circumstances of the case, the Workmen Compensation Commissioner Rudrapur is directed to give proper opportunity to adduce evidence to the petitioner in W.C.A. Case No. 6 of 2005.

With the above direction, the transfer application is rejected.

Certified copy of this order be issued to the learned counsel for the petitioner today on payment of usual charges.

(B.S. Verma, J.)

RCP